

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

MARIA SALCIDO

PLAINTIFF

V.

CIVIL ACTION NO. 2:11CV173-KS-MTP

UNIVERSITY OF SOUTHERN MISSISSIPPI, ET AL.

DEFENDANTS

ORDER

THIS MATTER is before the court on the Motion [21] for Reconsideration, or in the Alternative, for Clarification of the court's Order [20] entered on April 19, 2012. Having considered the motion, the court finds that it should be denied.

On April 19, 2012, the court entered an Order [20] denying Plaintiff's Motion [13] Regarding Compliance with Court Order Pertaining to Procedural Status and Discovery Issues, and stayed all discovery pending further order. In her Motion [21], Plaintiff asks the court to reconsider its order denying discovery, or in the alternative, to clarify its order to state whether narrowly-tailored discovery will be allowed.¹

As stated in its Order [20], Defendants' Motion to Dismiss or in the Alternative, for Summary Judgment [7][8], claiming that Plaintiff's claims are insufficiently pled, is currently pending before the district judge. Thus, under *Lion Boulos v. Wilson*, 834 F.2d 504, 507 (5th Cir. 1987), discovery may not proceed before this threshold issue is decided. The court stayed all discovery pending further order. *See* Order [20].

This court enjoys the inherent power to "reconsider, rescind, or modify an interlocutory order for cause seen by it to be sufficient." *Melancon v. Texaco, Inc.*, 659 F.2d 551, 553 (5th

¹While the motion ostensibly now seeks "narrow" discovery, the scope of the discovery requests outlined in the motion is quite broad and essentially amounts to full discovery. *See* Motion [21] at 3-4.

Cir. 1981). Generally, “motions to reconsider are analyzed under Rule 59(e) of the Federal Rules of Civil Procedure.”² *McDonald v. Entergy Operations, Inc.*, No. 5:03cv241BN, 2005 WL 1528611, at *1 (S.D. Miss. 2005). This court has “considerable discretion” in deciding whether to grant a motion for reconsideration. *See Edward H. Bohlin Co. v. Banning Co.*, 6 F.3d 350, 355 (5th Cir. 1993). However, granting a motion for reconsideration “is an extraordinary remedy and should be used sparingly.” *In re Pequeno*, 240 Fed. App’x 634, 636 (5th Cir. 2007) (quoting *Templet v. HydroChem, Inc.*, 367 F.3d 473, 477 (5th Cir. 2004)).

A motion to reconsider is not “intended to give an unhappy litigant one additional chance to sway the judge[.]” *McDonald*, 2005 WL 1528611, at *1 (citations omitted), and its purpose “is not to re-debate the merits of a particular motion.” *W.C. Bulley v. Fidelity Financial Servs. Of Miss., Inc.*, No. 3:00cv522-BN, 2000 WL 1349184, at *3 (S.D. Miss. Sept. 8, 2000). Indeed, “[i]f a party is allowed to address a court’s reasons as to why a motion was or was not granted, it would render the entire briefing process irrelevant and lead to endless motions to reconsider.”

Id. There are only three grounds for which this court may grant a motion for reconsideration: “(1) an intervening change in controlling law, (2) the availability of new evidence not previously available, and (3) the need to correct a clear error of law or prevent manifest injustice.” *W.C. Bulley*, 2000 WL 1349184, at *2 (citations omitted). If one of these three grounds is not present,

²Rule 59(e) is not technically applicable to Plaintiff’s motions since the Order [20] was not a final “judgment.” *See* Fed. R. Civ. P. 54; 59(e); 72. However, several district courts within the Fifth Circuit have applied the legal standards set forth in Rule 59(e) to motions to reconsider interlocutory orders. *See W.C. Bulley v. Fid. Fin. Servs. of Miss., Inc.*, No. 3:00cv522-BN, 2000 WL 1349184, at *2 (S.D. Miss. Sept. 8, 2000); *Goldman v. Hartford Life & Acc. Ins. Co.*, No. Civ.A. 03-0759, 2006 WL 861016, at *1 (E.D. La. Mar. 30, 2006); *Martinez v. Bohls Equip.Co.*, No. SA-04-CA-0120-XR, 2005 WL 1712214, at *1 (July 18, 2005). Accordingly, the court will apply the same standard to the instant motion.

the court must deny the motion. *Id.* at *3.

Plaintiff has failed to demonstrate any of these grounds. Accordingly, Plaintiff's Motion to Reconsider [21] should be denied.

IT IS, THEREFORE, ORDERED:

Plaintiff's Motion [21] for Reconsideration, or in the Alternative, for Clarification of the court's Order [20] is DENIED.

SO ORDERED on this 7th day of May, 2012.

s/ Michael T. Parker

United States Magistrate Judge